

February 9, 2000

ORIGINAL

Docket Clerk
Attn: Docket No. **OST-99-6578** -1/1
Department of Transportation
400 7th street S.W.,
Room PL401
Washington DC
20590

**Re: Procedures for Transportation Workplace Drug and Alcohol Testing Programs
Notice of Proposed Rulemaking: 49 CFR Part 40**

CHC Working Well is a major Canadian provider of Employee Assistance Services to over 1,000 companies and organizations located across all parts of Canada. Since 1995, we have also made the services of our qualified Substance Abuse Professionals available to clients subject to Department of Transportation regulations covering commercial motor vehicle drivers operating into the United States. This includes providing SAP services to members of the Canadian Motor Carrier Consortium, as well as to other carriers covered by these regulations.

Through the years we have placed, and will continue to place, a priority on ensuring the SAP services we provide are fully in compliance with the DOT regulations. Therefore, we have reviewed in detail the proposed revisions in the Notice of Proposed Rulemaking, and would like to comment on a number of the provisions. The fact that we have not commented on some of the proposed new provisions or amendments indicates we have no problem or concern with the changes as presently set out in the NPRM.

1. Qualifications of SAPs, §40.281:

- We note that there is no change proposed to the basic SAP qualifications in terms of knowledge, experience and professional certification. All of our SAPs meet these requirements. We would like to ensure that the standards set out in Appendix F are not supplemental to the qualification requirements listed in sub-parts (a) and (b), and that they are applicable only to a certification organization that wants DOT to authorize its counsellors to be qualified as SAPs under sub-part (a)(5).

- We currently train all individuals who provide SAP services through **CHC**, and therefore have no objection to the new requirement for SAP training every two years. However, we want to ensure there is some flexibility in content and delivery method, which allows us to best address the unique nature of our Canadian operations. For example, because of the remote location of many carriers, and therefore, of many of our **SAPs**, the most **effective** delivery option for training may be through teleconference as opposed to a course attended in person. Also, because Canadian employers are increasingly accessing SAP services for non-DOT circumstances, we need to ensure the training includes, at a minimum, the SAP responsibilities of the DOT program, but also includes any other unique aspects of delivery of SAP services in Canada.

Although further details on training obligations are not set out in this **NPRM**, we want to request an opportunity to review and comment in advance, should there be any intention to regulate detailed training requirements at some point in the future.

2. SAP Reports to Employers, §40.311:

- The requirement that the SAP report be sent in writing directly to the Designated Employer Representative is referenced in a number of sections of the **NPRM**. In order to ensure quality assurance and full compliance with the regulations, **CHC** currently supervises the work of our **SAPs**. Although our practice is not to make changes to the SAP assessment and recommendations, from time to time we may need to ask for changes in their written reports because certain data required by DOT is not provided, or because too much information of a medical nature may find its way into a report, and **should** not be forwarded to the employer. Again, the intent of this supervisory role is to ensure quality and compliance. This is particularly important for those individuals who may only be providing SAP services on an occasional basis.

It is our interpretation that the role we are playing as outlined above would not be considered one of a “third party or entity” as referenced in **40.311 (a)**. Since our internal processes are critical to how we provide SAP services, we would appreciate confirmation that we are in compliance with the regulations.

3. Questions for Comment:

- Should **SAPs** receive reports on the quantity of drugs in an employee’s system from the laboratories as the **MROs** now can?

We believe this information is not required for a proper SAP evaluation. There are a variety of interpretations which may result from a review of quantitative results, and which could in fact lead to a misdiagnosis by a SAP who has little or no experience with the scientific aspects of the testing process. Testing was never intended to identify addictions. We believe the most appropriate diagnostic procedures are those currently accepted and utilized by the addictions community.

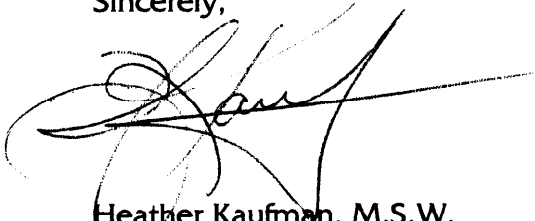
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- Is the minimum of six follow-up tests over one year adequate, or should it be increased to twelve tests?

We believe there should be no change in the rule. Since six tests in the first year is simply a minimum, it allows the SAP the flexibility to assess and recommend as appropriate an increase in either the number of tests, or the length of the testing period (up to **60** months), depending on their assessment of the individual's problem and after-care needs. A minimum of twelve tests in one year may be excessive in some circumstances.

Thank you for the opportunity to provide comments on these draft revisions to the regulations. We would be happy to provide further comments or clarification should that be required.

Sincerely,



Heather Kaufman, M.S.W.
Key Account Executive

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